IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO.4162 OF 2007

Mr. Vivek C.Vaidya .....Petitioner

Vs.

The Union of India & Ors.....Respondents

Mr.Prakash Shah & Mr. Jeetu Motwani i/b.P.D.S. Legal for the petitioner.

Mr. A.S. Rao with Mr.Y.S. Bhate, for the respondents.

CORAM : F.I. REBELLO &

R.V. MORE,JJ.

DATED : 4TH JULY, 2007

P.C.

. Rule. Heard forthwith. The petitioner herein had preferred an appeal against the order dated 30th May, 2003 whereby the penalty was imposed on him. The said order was subject matter of an Appeal preferred by the company which was within limitation. The Company also applied for interim relief in that matter. The same came to be disposed of by order dated 16th March, 2005. It is the case of the petitioner herein that he realised at this stage that the Appellant had to independently challenge the penalty imposed on him and that could not have been included in the Appeal preferred by the company. Accordingly, an appeal was preferred on May, 25, 2005 with an application for condonation of delay. That application has been rejected and consequently the present petition.

2. We have heard the learned Counsel for the parties. In our opinion on facts and circumstances the delay ought to have been condoned. In the instant case the penalty imposed both on the company and the petitioner herein was the subject matter of the Appeal preferred by the company. The moment the petitioner realised that he had to prefer an independent appeal pursuant to the order passed on the stay application the petitioner did prefer an appeal. In our opinion the cause shown would amount to sufficient cause and the delay in preferring the appeal ought to have been condoned. In the light of that the following order:-

. The impugned order dated 14th December, 2005 signed on 16th December, 2005 is quashed and set aside. The Application for condonation of delay is allowed. The respondents are directed to hear the Appeal according to law. Rule made absolute. No order as to costs.

(**F.I. REBELLO**, J)

(**R.V. MORE, J)**